

ICWA Fact Sheet for Case Managers

Removal and Temporary Custody

- ❖ If no voluntary emergency intervention can ensure the Indian child's safety, the Department shall:
 1. Take temporary custody of the child following ICWA placement preferences
 2. Return the child to the parent within 72 hours unless a dependency petition is filed
- ❖ Ask the child, caregiver, and any other person with knowledge, whether the child or the child's biological parent has any American Indian ancestry.
- ❖ If the child or child's biological parent has American Indian ancestry gather the following:
 1. Name of the tribe
 2. Tribal enrollment number
 3. Name of child's birth mother, father, maternal/paternal grandparents, social security number, and other information about extended family members
- ❖ Inform the AG's office if the child is believed to be an Indian child. The AG's office will send a notice to the child's tribe.
- ❖ Within 72 hours of the child being taken into custody, contact the tribal social worker and inform the tribe of the child's removal and that a Dependency petition may be filed. Also notify the tribal social worker of any TDM (Team Decision Meeting) or the results thereof if the social worker is unable to attend.
- ❖ If the tribe indicates that it will assume responsibility for the child:
 1. Obtain parent's, guardian's, caretaker's or Indian custodian's agreement with the child's transfer to the tribe
 2. Obtain the name of the tribal representative who will take physical custody of the child, as well as the date and time when this is to occur
- ❖ If a Dependency petition is filed, tribal officials may notify the Department of the tribe's intention to intervene as a party or request a transfer of jurisdiction of the case.

Pending Court Proceedings

- ❖ Any type of involuntary foster care placement of an Indian Child in a State court proceeding requires:
 1. The tribe have 10 days notice prior to any hearing.
 2. Registered mail service sent by the AG's office.
 3. Testimony that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.
 4. Clear and convincing evidence from a qualified expert witness that continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.
- ❖ Services provided to the family be documented.
- ❖ Evidence that will/or will not show that return of the child will result in damage to the child.

Placement Preferences for Foster Care

- ❖ An Indian child in foster care, in the absence of good cause to the contrary, shall be placed in accordance with the following preferences:
 1. A member of the Indian child's extended family
 2. A foster home licensed, approved, or specified by the Indian child's tribe
 3. An Indian foster home licensed or approved by an authorized non-Indian licensing authority
 4. An institution approved by an Indian organization, or operated by an Indian organization, that has a program suitable to meet the child's needs
- ❖ The Court may find good cause exists to deviate from the placement preferences (i.e. no family, no Native American foster homes, etc.)
- ❖ Document efforts to follow the placement preferences when placing Indian children in foster homes.

Collaboration with the Tribal Social Worker

- ❖ Continue to search for family members as possible placement for the child
- ❖ Send a letter to all the tribes located in Arizona to inquire whether they have any Native American foster homes available if your child is not already placed in accordance with ICWA preferences.
- ❖ Invite the tribal social worker to all meetings regarding the child. (CFT's, med reviews, IEP's, etc.)
- ❖ Maintain regular contact with the tribe's social worker and give case progress or lack thereof.
- ❖ Collaborate with the tribe's social worker in identifying and referring families to culturally sensitive services
- ❖ Collaborate with the tribe's social worker on cultural events the child may participate in to promote the child's culture.
- ❖ Ensure that the parents and tribe are notified, and the Department is given consent, prior to any major changes involving the child (i.e. cutting the child's hair, baptizing the child, etc.)

Permanency

- ❖ Always involve the tribal social worker when a concurrent plan is being implemented or the case plan is being changed from reunification
- ❖ Most tribes will ask that the case plan be changed to Guardianship or Long Term Foster Care.
- ❖ Be sure to consult with your supervisor and AG prior to changing the case plan goal.
- ❖ The placement preference order for adoption:
 1. A member of the Indian child's extended family
 2. Other members of the Indian child's tribe
 3. Another Indian family